

- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of the deceased passenger if he had lived after the time at which he died.

Contributory
negligence.

16.—(1.) Effect shall be given to Article 21 of the Warsaw Convention in accordance with the provisions of this section.

(2.) If, in an action against a carrier under the Convention, the carrier proves that the damage was caused by or contributed to by the negligence of the passenger or the consignor, the damages recoverable shall be assessed in accordance with this section.

(3.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with the Convention and there had been no negligence on the part of the passenger or consignor.

(4.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger or the consignor in the responsibility for the damage.

(5.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with the Convention, the court shall further reduce the damages to that maximum amount.

Added by
No. 38, 1962,
s. 6.

(6.)* Where any case to which sub-section (2.) of this section applies is tried with a jury, the jury shall determine the damages referred to in sub-section (3.) of this section and the amount of the reduction under sub-section (4.) of this section.

Actions
against Parties
to the
Convention
who undertake
carriage by air.

17.—(1.) A Party to the Convention which has not availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention shall, for the purposes of an action under the Convention brought in a

* See NOTE 2 on page 1 as to the coming into operation of this sub-section.